

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JACKSON LEWIS LLP
ATTORNEYS FOR DEFENDANT
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ATTORNEYS OF RECORD:

ROGER H. BRITON (RB4705)
KATHRYN J. RUSSO (KR7252)

-----X
WILLIAM B. DEVEER,

Plaintiff,

07 CV 04437

-against-

(Seybert, J.)

GOVERNMENT EMPLOYEES
INSURANCE CO.,

(Tomlinson, M.J.)

Defendant.

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TO: WILLIAM B. DEVEER.
PLAINTIFF PRO SE
ECM # 53064
P.O. BOX 4668
NEW YORK, NEW YORK 10163-4668

AFFIDAVIT OF KATHRYN J. RUSSO IN OPPOSITION TO
PLAINTIFF'S MOTION TO REMAND THIS CASE TO STATE COURT,
AND IN SUPPORT OF DEFENDANT'S CROSS-MOTION TO STRIKE
THE PURPORTED "AMENDED COMPLAINT".

STATE OF NEW YORK)
 ss.:
COUNTY OF SUFFOLK)

KATHRYN J. RUSSO, being duly sworn, deposes and says:

1. I am Of Counsel to the firm of Jackson Lewis LLP, counsel to Defendant Government Employees Insurance Co. ("GEICO") herein. As such, I am fully familiar with the facts and proceedings herein. I submit this Affidavit in Opposition to Plaintiff's Motion to Remand This Case to State Court, and In Support of Defendant's Cross-Motion to Strike the Purported "Amended Complaint."

2. A true and correct copy of Plaintiff's Complaint, filed in Supreme Court, Nassau County, on or about October 3, 2007, is attached hereto as Exhibit A.

3. Defendant GEICO was served with the Complaint on October 16, 2007.

4. Defendant removed this action to federal court on October 23, 2007. (A true and correct copy of the Notice of Removal, and Statement in Support of Notice of Removal, without exhibits, is attached hereto as Exhibit B).

5. On November 2, 2007, GEICO served and filed its Answer to the Complaint. (A copy of the Answer is attached as Exhibit C).

6. On November 14, 2007, Plaintiff served GEICO and Ralph Carrozza (a current employee of GEICO) with a purported "Amended Complaint" which was identical to the original Complaint, except that Mr. Carrozza was added as an individual Defendant. (A true and correct copy of the purported "Amended Complaint" is attached hereto as Exhibit D).

7. The Complaint was not amended prior to the time that Defendant served its Answer. Moreover, Plaintiff did not seek consent of Defendant GEICO or leave of the Court to amend the Complaint. Defendants, therefore, will not respond to the purported "Amended Complaint" unless ordered to do so by the Court.

8. On November 16, 2007, Defendant GEICO and Mr. Carrozza received Plaintiff's Motion To Remand This Case.

WHEREFORE, it is respectfully requested that the Court deny Plaintiff's motion to remand this case to state court, to strike the purported "Amended Complaint," and to deny any request for leave to amend the Complaint to add Ralph Carrozza as an individual defendant.


KATHRYN J. RUSSO

Sworn to before me on this
29th day of November, 2007


Notary Public

PATRICIA J. RUSSOLESE
Notary Public, State Of New York
No. 01AM4898520
Qualified In Nassau County
Commission Expires June 15, 2011